

AMENDED IN ASSEMBLY APRIL 17, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2422**

**Introduced by Assembly Member Richman**

February 21, 2002

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An act to ~~amend Section 1378 of, and to add Sections 1378.3, 1378.4, and add Section 1378.5 to,~~ the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 2422, as amended, Richman. Health care service plans: administrative costs.

Under existing law, the Knox-Keene Health Care Service Plan Act of 1975, health care service plans are regulated by the Department of Managed Health Care. Existing law prohibits a health care service plan from spending, in any fiscal year, an excessive amount of the aggregate dues, fees, and other periodic payments received for providing health care services to prescribers or enrollees on administrative costs. *A violation of the act is a crime.*

~~This bill would define the term “administrative costs” and would require that the administrative costs and profits directly incurred by a plan be reasonable and necessary. The bill would require a plan to submit a report with specified information to the director if the administrative costs of the plan are excessive. Additionally, the bill would require that all marketing and promotional materials of a full service health care service plan disclose as an indicator the percentage of premiums spent on patient care, using specified standardized language.~~

~~Existing law makes a violation of any provision of the Knox-Keene Health Care Service Plan Act of 1975 a crime.~~

By imposing new reporting and disclosure requirements on health care service plans, the bill would ~~expand the scope of that~~ *create a new* crime; and ~~thus would~~ impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1    ~~SECTION 1. Section 1378 of the Health and Safety Code is~~  
2    ~~amended to read:~~

3    ~~1378. (a) No plan shall expend for administrative costs in any~~  
4    ~~fiscal year an excessive amount of the aggregate dues, fees, and~~  
5    ~~other periodic payments received by the plan for providing health~~  
6    ~~care services to its subscribers or enrollees.~~

7    ~~This section shall not preclude a plan from expending additional~~  
8    ~~sums of money for administrative costs provided that the money~~  
9    ~~is not derived from revenue obtained from subscribers or enrollees~~  
10    ~~of the plan.~~

11    ~~(b) If a plan exceeds the limits established by subdivision (a),~~  
12    ~~the plan shall submit a report to the director indicating why the~~  
13    ~~state standard was not met, and indicating the steps being taken to~~  
14    ~~meet the standard in the future.~~

15    ~~(c) For purposes of this section, money borrowed shall be~~  
16    ~~deemed to be money derived from revenue obtained from~~  
17    ~~subscribers and enrollees to the extent that the revenue is exposed~~  
18    ~~to liability for repayment of the borrowings or to the extent that~~  
19    ~~repayment is anticipated from the revenues. Money not derived~~  
20    ~~from the revenues includes only net assets arising independently~~  
21    ~~of the operation of the plan and not traceable on a historical basis~~  
22    ~~to the revenues, whether as net profit or otherwise.~~

23    ~~SEC. 2. Section 1378.3 is added to the Health and Safety~~  
24    ~~Code, to read:~~

1     ~~1378.3.— For the purposes of Section 1378, “administrative~~  
2 ~~costs” include only those costs that arise out of the operation of the~~  
3 ~~plan, excluding direct and overhead costs incurred in the~~  
4 ~~furnishing of health care services that would be ordinarily incurred~~  
5 ~~in the provision of those services whether through a plan or not.~~  
6 ~~Administrative costs shall include, but are not limited to, the~~  
7 ~~following:~~

8     ~~(a) Salaries, bonuses, and benefits paid or incurred with respect~~  
9 ~~to the officers, directors, partners, trustees, or other principal~~  
10 ~~management of the plan, except, to the extent that they are~~  
11 ~~providers of health care services, the minimum reasonable cost to~~  
12 ~~obtain these services from others are not considered administrative~~  
13 ~~costs.~~

14     ~~(b) The cost of soliciting and enrolling subscribers and~~  
15 ~~enrollees, including the solicitation of group contracts and~~  
16 ~~including any indirect costs of enrollment borne on behalf of the~~  
17 ~~plan by the holder of a group contract.~~

18     ~~(c) The cost of receiving, processing, and paying claims of~~  
19 ~~providers of health care services and of claims for reimbursement~~  
20 ~~by subscribers and enrollees, excluding the actual amount paid on~~  
21 ~~those claims.~~

22     ~~(d) Legal and accounting fees and expenses.~~

23     ~~(e) The premium on the fidelity and surety bonds, any~~  
24 ~~insurance maintained pursuant to Section 1377, and any insurance~~  
25 ~~or other expense incurred for the purposes of complying with~~  
26 ~~Section 1375, excluding malpractice insurance.~~

27     ~~(f) Costs associated with the establishment and maintenance of~~  
28 ~~agreements with providers of health care services, excluding the~~  
29 ~~cost of reviewing quality and utilization of the services and the cost~~  
30 ~~of reviewing utilization of health care services on a referral basis.~~

31     ~~(g) The direct or pro rata portion of all expenses incurred in the~~  
32 ~~operation of the plan that are not essential to the actual provision~~  
33 ~~of health care services to subscribers and enrollees, including, but~~  
34 ~~not limited to, office supplies and equipment, clerical services,~~  
35 ~~interest expense, insurance, dues and subscriptions, licenses (other~~  
36 ~~than licenses for medical facilities, equipment, or personnel),~~  
37 ~~utilities, telephone, travel, rent, repairs and maintenance,~~  
38 ~~depreciation of facilities and equipment, and charitable or other~~  
39 ~~contributions.~~

1     ~~SEC. 3. Section 1378.4 is added to the Health and Safety~~  
2     ~~Code, to read:~~

3     ~~1378.4. (a) The administrative cost and profit incurred by a~~  
4     ~~plan directly shall be reasonable and necessary, taking into~~  
5     ~~consideration factors including the plan's stage of development~~  
6     ~~and other considerations.~~

7     ~~(b) Reasonable and necessary administrative costs and profit~~  
8     ~~shall be as follows:~~

9     ~~(1) Ten percent for plans that delegate responsibility for the~~  
10    ~~administrative functions, as listed in subdivision (c), to all~~  
11    ~~contracting providers for subscribers and enrollees for whom the~~  
12    ~~provider is responsible to provide care.~~

13    ~~(2) Up to, but no greater than, 15 percent for plans that retain~~  
14    ~~all responsibilities listed in subdivision (c).~~

15    ~~(3) For plans that delegate part of the functions listed in~~  
16    ~~subdivision (c), the percentage shall be proportional to the amount~~  
17    ~~delegated, to be within the 10 to 15 percent range.~~

18    ~~(4) For a plan in the development phase, the percentage shall~~  
19    ~~not exceed 25 percent.~~

20    ~~(c) The administrative functions to be considered are as~~  
21    ~~follows:~~

22    ~~(1) Utilization review pursuant to paragraphs (2) and (3) of~~  
23    ~~subdivision (b) of Section 1300.80 of Title 28 of the California~~  
24    ~~Code of Regulations.~~

25    ~~(2) Claims payment pursuant to subdivision (c) of Section~~  
26    ~~1378.3.~~

27    ~~(3) Credentialing of the providers to ensure their qualifications~~  
28    ~~to provide care.~~

29    ~~(d) If the administrative costs and profit, during any period,~~  
30    ~~exceed a reasonable and necessary amount of the revenue obtained~~  
31    ~~by the plan from subscribers and enrollees, or paid on their behalf,~~  
32    ~~the plan shall demonstrate to the director either of the following:~~

33    ~~(1) That its administrative costs and profits are not excessive~~  
34    ~~administrative costs within the meaning of Section 1378 and are~~  
35    ~~justified under the circumstances.~~

36    ~~(2) That it has instituted procedures that are proving effective~~  
37    ~~to reduce administrative costs.~~

38    ~~(e) An established plan, no longer meeting the definition of a~~  
39    ~~plan in the development phase, is a plan that has been in operation~~  
40    ~~for a period of three years or more.~~

1 ~~SEC. 4.—~~

2 *SECTION 1.* Section 1378.5 is added to the Health and Safety  
3 Code, to read:

4 1378.5. (a) All marketing and promotional materials of a full  
5 service health care service plan shall disclose as an indicator  
6 “Percentage of Premiums Spent on Patient Care,” using  
7 standardized language.

8 (b) The “Percentage of Premiums Spent on Patient Care”  
9 indicator shall be 100 minus the sum of administrative costs and  
10 net ~~income~~ profit.

11 (c) The standardized language required by subdivision (a) shall  
12 be as follows: “This medical plan spends \_\_\_\_ percent of  
13 premiums on patient care, ~~an amount that \_\_\_\_ (does/does not)~~  
14 ~~meet the reasonable and necessary standard established by state~~  
15 ~~law.”~~ care.” This language shall be prominently displayed in a  
16 box, using the same font, type size, and shading used most  
17 frequently in the promotional or marketing materials.

18 (d) *For purposes of this section, the following definitions shall*  
19 *apply:*

20 (1) *“Administrative costs” shall have the same meaning as in*  
21 *Section 1300.78 of Title 28 of the California Code of Regulations.*

22 (2) *“Net profit” shall have the same meaning as in Section*  
23 *1300.78 of Title 28 of the California Code of Regulations.*

24 SEC. 5. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.